

REMARKS

Claims 1-33 are currently pending in the application. Claims 1-18 and 27-33 have been withdrawn as being directed to a non-elected invention. Claims 19-25 stand rejected. Claim 26 stands objected to.

35 U.S.C. § 102(b) Anticipation Rejections

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. § 2131. The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the claim set as provided herein is not anticipated by the cited references.

Anticipation Rejection Based on U.S. Patent No. 4,854,478 to Gyimothy

Claims 19-21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,854,478 to Gyimothy (hereinafter “Gyimothy”). Applicants respectfully traverse this rejection, as hereinafter set forth.

Claim 19 discloses a slanted channel capable of receiving a plurality of rounded capsules. Gyimothy discloses a system in which the rounded capsules are held in a large reservoir or tablet supply space (Fig. 4, item 4). This is precisely the bulk storage arrangement that the specification of the present invention describes as unworkable for large objects; the decreased agitation propensity makes it difficult for a single rounded object to disengage from its adjacent rounded objects. (See published specification, paragraph 5, lines 24-28.) Gyimothy, conversely, is intended for use only with rounded capsules that are small enough to be swallowed.

Gyimothy discloses a design wherein rounded objects are delivered one at a time to a point below where they are being stored. The Examiner states that Gyimothy includes a slanted channel and a delivery chute (Figure 2, item 12). The slanted channel of the present invention, however, is not included in Gyimothy. A channel is defined as a long gutter, groove, or furrow (Merriam-Webster). The two components of Gyimothy that the Examiner appears to equate with the slanted channel of claim 19 are the tablet orienting space 14 and the shoulder 13. Neither is a long gutter or groove—a channel—and neither is intended to hold a plurality of rounded capsules. Instead, the tablet orienting space appears to capture one rounded capsule when the two sections of the Gyimothy invention are compressed along a vertical axis, and then deliver that single capsule, via the shoulder 13, to the tablet delivery space 12. Indeed, it would appear that the tablet orienting space 14 and the shoulder 13 are merely extensions of the tablet delivery mechanism 19—the equivalent of the delivery chute—rather than being intended for storage of a plurality of capsules, as the slanted channels are intended in the present invention.

Applicant submits that this single lack of identity between Gyimothy and the present invention are sufficient to render a rejection of claims 19-21 under 35 U.S.C. § 102(b) inappropriate. Applicant also notes, however, that the combination of claim 19 and dependent claim 21 is also not disclosed by Gyimothy.

In claim 21, a delivery chute is attached to the capsule transport via a pivot bar. The pivot bar moves the delivery chute when the capsule transport moves. The Examiner equates this feature of the present invention with column-like circular wall 9 in Gyimothy, which forms the inner wall of the tablet separating channel (equated to the delivery chute). The column-like circular wall 9 moves when the tablet issuing mechanism 17 moves. If the tablet issuing mechanism is equated to the capsule transport of the present invention, and the distinction

between the slanted channels and tablet supply space 4 are ignored, a resemblance in function is evident. The means of achieving the function, however, is quite different in the two inventions. Claim 21 of the present invention discloses a pivot bar that moves the delivery chute. The word pivot refers to turning on an axis. In Gyimothy, there is no separate component—no pivot bar—that connects column-like circular wall 9 with tablet issuing mechanism 17. They are opposite ends of the same piece of material, as is clearly shown in Gyimothy, Figure 3. Further, no pivoting—no turning or rotation—takes place as the two components of Gyimothy move. Being two ends of the same component, both move together along a longitudinal axis (see Gyimothy, col. 1, lines 62-66).

One embodiment of Gyimothy does include a relief-type control cam 34 and disk 30 that rotate relative to one another during operation of the invention. These two components, however, relate to the tablet separating channel, not the tablet issuing mechanism (Gyimothy, col. 6, lines 15-34), and thus the rotating cam embodiment is also not equivalent to the present invention.

In view of the foregoing, Applicants respectfully request that the rejection of claims 19-21 under 35 U.S.C. § 102(b) as being anticipated by Gyimothy be withdrawn.

Anticipation Rejection Based on U.S. Patent No. 6,497,342 to Zhang

Claim 19 also stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,497,342 to Zhang et al. (hereinafter “Zhang”). Applicants respectfully traverse this rejection, as hereinafter set forth.

Zhang discloses an invention comprising multiple slanted channels (Zhang, Fig. 2, item 8), each being open-ended to communicate with a delivery chute (Fig. 2, item 9), which in turn is connected to a capsule transport (Fig. 2, items 7 and 15).

Zhang does not disclose, however, two features which are disclosed in claim 19 of the present invention. First, the slanted channels of Zhang do not hold a plurality of rounded capsules, as claim 19 requires. Rather, each is intended to hold a single capsule or tablet. This is clearly shown in Figs 3-5, items 81, 82, and 83. This is also evident in the description of the invention's functioning (col. 4, lines 3-7), which speaks of "a tablet 81, capsule 82, or caplet 83".

Second, the capsule transport disclosed in Zhang (Fig. 2, items 7 and 15) is not moveable, as disclosed in claim 19 of the present invention. Instead, both the delivery chute and capsule transport in Zhang are part of the non-moving base of the invention. (See Fig. 2, items 3, 9, 5, 7, and 15, as well as col. 4, lines 8-24.)

Applicants respectfully request that the rejection of claim 19 under 35 U.S.C. § 102(b) as being anticipated by Zhang et al. be withdrawn.

Anticipation Rejection Based on U.S. Patent No. 2,256,976 to Ford

Claims 19, and 22-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,256,976 to Ford (hereinafter "Ford"). Applicants respectfully traverse this rejection, as hereinafter set forth.

Although a superficial resemblance between Ford and the present invention is evident, Applicants respectfully submit that the plain meaning of the terms in claim 19 of the present invention differ from the art disclosed in Ford. Specifically, claim 19 requires a slanted channel that holds a plurality of rounded capsules. Ford does not disclose a slanted channel but a vertical

channel. Slanted is defined as “to incline obliquely” (American Heritage Dictionary) or “to give an oblique or sloping direction to” (Merriam-Webster). Oblique is further defined as “not direct in descent” (American Heritage) and, in the nautical sense, “at an angle of 45 degrees.” (*Id.*) Thus a slanted channel cannot be a vertical channel. The notion of a slant being distinct from a vertical orientation is further shown by claim 24, which refers to the slant being in “one direction.” A vertically oriented channel cannot have a slant in one direction or another—mathematically it has no slope, no slant.

A further difficulty in comparing the present invention to Ford lies in the rounded capsules disclosed in claims 19 and 25. Rounded capsules are not equivalent to hot dogs. Ford discloses in Figure 1 a plurality of vertical channels that appear to contain rounded capsules. Everything in Ford, however, teaches that these are in fact cylindrical sandwiches comprising a bun and sausage: a hot dog. This cannot be said to be equivalent to the rounded capsules taught in claim 19, and further highlighted by claim 25, the independent claim which states that the rounded capsules are to have a diameter of four inches. A rounded capsule has a diameter—an oblong shaped object having a round cross-section may have a cross-sectional diameter, but Ford nowhere teaches a sandwich having a diameter of four inches.

Claim 22 is hereby withdrawn as being without an antecedent basis in the remaining independent claims.

In view of the foregoing discussion, Applicants respectfully request that the rejection of claims 19, and 22-25 under 35 U.S.C. § 102(b) as being anticipated by Ford be withdrawn.

Objection Based on Lack of a Valid Independent Claim

Claim 26 stands objected to as being premised on a rejected base claim. Applicants respectfully submit that, based upon the arguments presented herein, the base claims upon which claim 26 depends are in condition for allowance. Applicants respectfully request that the objection to claim 26 therefore be withdrawn.

CONCLUSION

In view of the foregoing, Applicants respectfully submit that the pending claims are in condition for immediate allowance. In the event the Examiner finds any remaining impediment to the prompt allowance of any of these claims which could be clarified in a telephone conference, the Examiner is respectfully urged to initiate the same with the Applicant's undersigned attorney.

DATED this 3rd day of January, 2005.

Respectfully submitted,



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